

REMARKS

The Office Action of September 26, 2007, is acknowledged. Claims 1-4, 7-8, and 11 were rejected under 35 USC § 103(a) as being obvious over U.S. Patent No. 6,009,731 to Emmons *et al.* in view of U.S. Patent No. 3,945,671 to Gerlach. Claims 1-14 and 16-28 were rejected under 35 USC § 103(a) as being obvious over Emmons *et al.* in view of U.S. Patent No. 6,761,051 to Tsai. Claims 29-38 and 40-43 were allowed.

Applicant respectfully traverses the rejection that claim 1 is obvious over either Emmons *et al.* in view of Gerlach or Emmons *et al.* in view of Tsai. The Examiner asserted that it would be an obvious design choice for one of ordinary skill in the art to provide the device of Emmons *et al.* with a seal such as taught by Gerlach to achieve the expected function disclosed using available technology. However, KSR Examiner Guidelines require that, to assert such an obvious rejection, it is necessary to articulate that one of ordinary skill in the art could have combined the elements as claimed by known methods. The Examiner has offered no such explanation as to how one skilled in the art could have combined the elements other than a mere conclusory statement. Accordingly, the Examiner has used impermissible hindsight based solely on the teachings in the subject application. Furthermore, the Examiner has not provided any apparent reason how or why one skilled in the art would combine the known elements in the fashion claimed, and certainly has not been explicit as required by *KSR Int'l Co. v. Teleflex, Inc.*, 83 USPQ 2d 1385 (US 2007).

Furthermore, the Examiner asserted that it would have been an obvious design choice or engineering expediency of one of ordinary skill in the art the time the invention to modify the device of Emmons *et al.* to be used with a lock mechanism as taught by Tsai to achieve security and to provide for user ability as well known in the art. The Examiner's assertion of obvious design choice or engineering expedient is not an accepted rationale under KSR, and the Examiner has merely provided a conclusory statement instead of providing an apparent reason how and why one skilled in the art would have made the suggested combination. Accordingly, the Examiner has used impermissible hindsight based solely on the teachings in

the subject application. Accordingly, Applicant asserts that independent claims 1-11 are not obvious in view of Emmons *et al.* over Gerlach or Tsai.

Applicant respectfully traverses the rejection that claim 12 is obvious over Emmons *et al.* in view of Tsai. Claim 12 includes the limitation of "a lock body having bores meeting in substantially T-shaped configuration, and the locking pin engages the locking member in the bores when the locking member is in the locked position." The application clearly shows and describes this feature in Figure 7, wherein lock body 72 clearly has bores 81 and 83 that intersect in a T-shaped configuration. Furthermore, locking pin 74 clearly engages locking member 32 in the bores when the locking member is in the locked position, as shown in Figure 7 and discussed in paragraph [00064]. On the other hand, neither Emmons *et al.* nor Tsai include a lock body with bores. Locking pin 4 in Tsai engages locking member 21, but not in the bores of a lock body. Rather, it is clearly evident in Figure 2, the locking pin engages the locking member in the internal open area formed by casing parts 11, 12. Accordingly, claim 12 is not obvious over Emmons *et al.* in view of Tsai, and Applicant has amended claim 12 in independent form, as should clearly be allowable.

Applicant also respectfully traverses the rejection that claim 13 is obvious over Emmons *et al.* in view of Tsai. Claim 13 includes in part the limitations of "the locking pin being operated by an electro-mechanical device including an armature extension that moves in a direction opposite the locking pin, the armature extension being connected to the locking pin with a connecting lever member, the connecting lever member being mounted on a pivot." This feature is shown in Figures 2A, 5-8 of the application, wherein armature extension 112 moves in the opposite direction from locking pin 74, and armature extension 112 is connected to the locking pin by connecting member 114, which is mounted on pivot point 115 (paragraphs [00056] and [00066]).

The Office Action provides no explanation or reasoning of how it is asserted that the limitations in claim 13 are obvious over Emmons *et al.* in view of Tsai. Neither Emmons *et al.* nor Tsai disclose the limitations set forth above. Emmons *et al.* does not include a locking pin, and Tsai's locking pin is operated in a completely different manner.

Tsai's locking pin is operated by a drive motor 61 having a worm gear attached thereto, which turns a transmission gear 63 and operating gear 64. A cam projection 643 is attached to and rotates with operating gear 64, which in turn operates projection 413 on latch member 4 (Figures 2, 5 and column 3, lines 23-67 and column 4, lines 1-12). Tsai provides nothing like the required armature extension moving in a direction opposite the arm of a pin and attached thereto with a connecting lever mounted on a pivot, but instead operates with rotational motion of the motor and gears. Accordingly, claim 13 is not obvious over Emmons *et al.* in view of Tsai.

As claim 13 is not obvious over Emmons *et al.* in view of Tsai, dependent claims 14 and 16-21 are also not obvious.

Applicant also respectfully traverses the rejection that claim 22 is obvious over Emmons *et al.* in view of Tsai. Claim 22 requires, in part, "a lock body including a locking member bore and a locking pin bore that intersects with the locking member bore, the locking member bore including a counter bore and a biasing apparatus mounted in the counter bore including a bolt engaging member" and "the end of the locking member and the movable parts on the biasing apparatus contained completely within the lock body in the locked position."

This feature is shown in Figures 5-8 of the application, wherein biasing apparatus 80 is mounted in counterbore 82 of lock body 72 and includes a bolt engaging member 124. In addition, as clearly seen in Figure 7, the end of a locking member 32 and the movable parts 124 of the biasing apparatus are contained completely within the locked body in the locked position.

On the other hand, and as discussed above regarding claim 12, neither Emmons *et al.* nor Tsai include a lock body, and it is clear that the biasing apparatus/spring 23 in Tsai is mounted in a completely different area and away from the locking pin 4 so that even if some part of the mechanism in Tsai were deemed to be a lock body, the biasing apparatus 23 is not contained in an intersecting bore for the locking member. Furthermore, biasing apparatus/spring 23 in Tsai does not have a bolt engaging member, as required by claim 22

and is clearly disclosed in Applicant's invention. Accordingly, claim 22 is not obvious over Emmons *et al.* in view of Tsai.

As claim 22 is not obvious over Emmons *et al.* in view of Tsai, dependent claims 23-28 are also not obvious.

The Applicant has made an earnest attempt to respond completely to the Office Action of September 26, 2007, and Applicant believes that all remaining claims 1-14, 16-38, and 40-43 are in condition for allowance. Accordingly, Applicant requests reconsideration and allowance of the remaining claims. Furthermore, Applicant has amended and canceled certain claims solely to advance prosecution of this application and to obtain allowance on the allowable claims at the earliest possible date. Therefore, no admission may be inferred by the cancellation amendments to the claims herein.

If additional time is required, please consider this a petition therefore and charge any shortages in fees, or apply any overpayment credits, to Baker & Daniels LLP's Deposit Account No. 02-0387 (971355.3). However, please do not include the payment of issue fees.

Respectfully submitted,

A handwritten signature in cursive script, reading "Daniel Tychonievich", written over a horizontal line.

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Appl. No. 10/752,252  
Reply to Office Action of 09/26/2007

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Docket No. TRG0001  
Customer No. 27187

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